

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIMOTHY D. KANE,)	
)	
Plaintiff,)	
v.)	No. 07 C 6590
)	
RAYMOND GILBERT and)	Magistrate Judge Maria Valdez (consent)
JOSEPH PAAVILAINEN,)	
)	
Defendants.)	

JOINT INITIAL STATUS REPORT

The Plaintiff, Timothy D. Kane, by and through his attorney, Gary L. Gassman of the Meckler Bulger & Tilson LLP law firm, and Defendants, Raymond Gilbert and Joseph Paavilainen, by and through their attorney, Daniel Field of the Scariano, Himes and Petrarca law firm, jointly submit this initial status report pursuant to Judge Valdez's standing order and state as follows:

1. This action for deprivation of constitutional rights arises under 42 U.S.C. § 1983. Plaintiff Timothy D. Kane ("Kane") is a citizen of the United States who is currently incarcerated in Menard, Illinois. Defendants Raymond Gilbert ("Gilbert") and Joseph Paavilainen ("Paavilainen") were Lake County, Illinois Deputies employed by the Lake County, Illinois Sheriff's Department on and before January 8, 2006.

The plaintiff asserts that on January 8, 2006, he was hiding under a bed at the American Inn Motel room #125 when the defendants arrived to investigate an alleged crime. The defendants came into contact with the suspected offender, Mark Lesofsky, and began searching the room, finding the plaintiff hiding under the bed. According to the plaintiff, the defendants ordered the plaintiff to get up and hit him on the top of his head with a baton splitting his scalp and causing him

to fall to the floor. The defendants also grabbed the plaintiff's leg, pulled him over the bed frame, kicked him in the shin, stomped on his body and legs and repeatedly struck him with a baton. The plaintiff asserts that the defendants never announced to him that he was under arrest and never tried to restrain him or place handcuffs on him.

The plaintiff asserts that while he was lying on the ground the defendants sprayed him with mace in the face and mouth three times. Defendant Paavilainen then punched the plaintiff, grabbed his arm, turned him on his stomach, placed his knee in plaintiff's back and handcuffed plaintiff while he laid gagging from the mace and bleeding. The plaintiff was then led to an ambulance, became unconscious and awoke while being transported to Victory Memorial Hospital where he received staples to close the wounds inflicted by the defendants. The plaintiff asserts that the defendants' actions constitute the use of excessive force as he was not resisting arrest.

2. The plaintiff seeks compensatory and punitive damages in excess of \$50,000 for injuries he sustained as a result of the defendants' violation of plaintiffs' Constitutional rights and conspiracy to violate his Constitutional rights and attorney's fees and costs.

3. There are no pending motions.

4. The parties were going to request a new discovery schedule from Judge Lindberg. At that time, however, the parties agreed to consent to the assignment of this matter to Judge Valdez. Therefore, a new schedule needs to be set for discovery, pretrial order and trial. The parties propose a discovery cut-off date of October 31, 2008.

5. To date, the parties have obtained the medical records related to the injuries asserted by the plaintiff. No depositions have been taken or scheduled. Plaintiff anticipates taking the depositions of the defendants, one or two fact witnesses at the scene, Mitch Saunders and Mark Lesofsky, and one or two of the medical professionals who treated the plaintiff. Defendants

anticipate taking the depositions of the plaintiff, the witnesses at the scene and one or more of the medical professionals.

6. A jury has not been demanded.

7. The parties briefly discussed the possibility of settlement but no demands or offers have been made.

DATED: July 9, 2008

By: /s/Gary L. Gassman

Gary L. Gassman
Meckler Bulger & Tilson LLP
123 North Wacker Drive, Suite 1800
Chicago, IL 60606
(312) 474-7900 Phone
(312) 474-7898 Fax
Attorney for Plaintiff

By: /s/Daniel P. Field

Daniel P. Field
Scariano, Himes and Petrarca
209 West Madison Street
Waukegan, IL 60085-4345
847-662-5800 Phone
847-662-6813 Fax
Attorney for Defendants

M:\12607\pleading\Initial Status Report.doc